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2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF VIRGINIA
4 ALEXANDRIA DIVISION

4 UNITED STATES OF AMERICA,)
5 v.) Case No. 1:11-cr-116
6 THOMAS J. ERNST,) Alexandria, Virginia
7 Defendant.) July 26, 2011
8) 9:30 a.m.
9)

10 TRANSCRIPT OF PLEA
11 BEFORE THE HONORABLE CLAUDE M. HILTON
12 UNITED STATES DISTRICT JUDGE
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19 APPEARANCES:

20 For the United States: Thomas J. Krepp, Esq.
21 Caryn Finley, Esq.
22 Charles Connolly, Esq.

23 For the Defendant: Peter L. Goldman, Esq.
24 Defendant Thomas J. Ernst,
25 in person

Court Reporter: Tracy L. Westfall, RPR, CMRS, CCR

Proceedings reported by machine shorthand, transcript produced
by computer-aided transcription.

1 P R O C E E D I N G S

2 THE CLERK: Criminal No. 2011-116, *United States of*
3 *America v. Thomas J. Ernst.*

4 MR. KREPP: Good morning, Your Honor. Thomas Krepp,
5 Caryn Finley, and Charles Connolly on behalf of the United
6 States.

7 MR. GOLDMAN: Good morning, Your Honor. Peter Goldman
8 on behalf of Mr. Ernst.

9 THE DEFENDANT: Thomas Ernst, Your Honor.
10 (The defendant is sworn.)

11 THE COURT: All right. Mr. Ernst, you've now been
12 placed under oath. I'm going to ask you certain questions
13 concerning the plea and the offense itself.

14 You understand if you give any false answers to any of
15 these questions, you could subject yourself to a charge of
16 perjury?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Would you state your full name.

19 THE DEFENDANT: Thomas John Ernst.

20 THE COURT: How old are you?

21 THE DEFENDANT: 66.

22 THE COURT: What is the extent of your education?

23 THE DEFENDANT: I'm sorry, Your Honor. I'm hard of
24 hearing.

25 THE COURT: What is the extent of your education?

1 THE DEFENDANT: I have two college degrees, a master's
2 degree, Ph.D. candidacy, and a Georgetown Law School degree.

3 THE COURT: Have you reviewed the plea agreement which
4 has been signed by you and your client on the one hand and the
5 government on the other?

6 THE DEFENDANT: Yes, Your Honor, by my counsel, yes.

7 THE COURT: Does it contain the entire understanding
8 you've reached with the government in this matter?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Have you received a copy of the indictment
11 and gone over it with your attorney?

12 THE DEFENDANT: Yes, Your Honor, I have.

13 THE COURT: You understand Counts 1 and 3 of this
14 indictment charge you with obstructing the administration of the
15 Internal Revenue laws and tax evasion?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And you understand that in order to convict
18 you of these offenses, the government would have to prove beyond
19 a reasonable doubt that you did obstruct the administration of
20 the Internal Revenue laws and that you also evaded paying the
21 required income taxes, and that you did so knowingly, willfully,
22 and intentionally?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Have you told your attorney all of the
25 facts about the case that you know?

1 THE DEFENDANT: Yes, Your Honor, I have.

2 THE COURT: Do you feel you've had a sufficient length
3 of time to confer with your attorney in order to fully
4 understand the case?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Are you satisfied with the representation
7 your attorney has given you?

8 THE DEFENDANT: I apologize.

9 THE COURT: Are you satisfied with the representation
10 your attorney has given you?

11 THE DEFENDANT: Yes, Your Honor, very.

12 THE COURT: Now, you understand that if your plea is
13 accepted, you could be imprisoned up to three years, pay a fine
14 of up to \$250,000, serve up to one year of supervised release as
15 to Count 1; as to Count 3, serve up to five years, pay a fine of
16 up to \$250,000, up to three years of supervised release, in
17 addition to paying a special assessment fine of a hundred
18 dollars as to each of the counts?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And you also understand that any sentence
21 that may be imposed will be affected by the sentencing
22 guidelines that if you violate any of the terms or conditions of
23 your supervised release, you would have to serve that period of
24 time?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: And you understand that in this plea
2 agreement, you're waiving any rights you may have to appeal the
3 sentence that may be imposed?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you also understand that you have an
6 absolute right to plead not guilty?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And you understand that if you did plead
9 not guilty, you have certain constitutional guarantees; that is,
10 the right to a speedy and public trial of a jury if you want a
11 jury, the right not to testify and remain silent unless you want
12 to testify, the right to see, hear, and cross-examine all
13 witnesses against you, the right to use the process of this
14 Court to compel the production of evidence and attendance of
15 witnesses in your behalf, and the right to the assistance of a
16 lawyer at all stages of the proceedings?

17 You understand that by pleading guilty, you're giving
18 up these constitutional guarantees?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: And you understand that by pleading guilty,
21 the Court may impose the same punishment as if you had been
22 tried and convicted by a court or by a jury?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Now, has anyone made any promise or threat
25 to induce you to plead guilty?

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: Along with this plea agreement was filed
3 and handed to me a statement of facts.

4 Have you reviewed this statement?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Have you reviewed it with your attorney?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you disagree in any particular with this
9 statement of facts?

10 MR. GOLDMAN: Your Honor, if I may, Mr. Ernst doesn't
11 disagree with the statement of facts. There are some factual
12 assertions that we do want to address as a matter of mitigation,
13 but we will do so at sentencing.

14 THE COURT: All right. So I understand you don't
15 disagree in any detail with this statement of facts?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you disagree at all with the statement
18 of facts?

19 THE DEFENDANT: No, other than what Mr. Peter Goldman
20 just expressed.

21 THE COURT: Is what this statement says happened in
22 fact what did happen?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: You understand that once you've pled
25 guilty, you cannot refuse to testify against confederates,

1 accomplices, or codefendants who may now or hereafter be charged
2 with the same or associated crime?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And you understand that by pleading guilty,
5 you waive the right to object to any question concerning the
6 legality of the admission or seizure of any evidence in
7 connection with this charge?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: You understand that if your plea is
10 accepted now, there'll be no further trial of any kind and
11 you'll be found guilty?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you make any claim that you are innocent
14 of the charges contained in Counts 1 and 3 of this indictment?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Then how do you plead to Count 1?

17 THE DEFENDANT: Guilty, Your Honor.

18 THE COURT: And to Count 3?

19 THE DEFENDANT: Guilty, Your Honor.

20 THE COURT: The Court finds the pleas are voluntarily
21 and intelligently entered. There's a factual basis to support
22 the pleas. Find the defendant guilty of the charges contained
23 in Counts 1 and 3 of this indictment.

24 October 21 be a good day for sentencing?

25 MR. GOLDMAN: Your Honor, we're going to ask for a

1 different date. Let me explain why. Based on largely the
2 defense's request but also Mr. Krepp's trial schedule, we're
3 going to ask for December 16th.

4 As you know, Your Honor, the Court has approved CJA
5 funds for a forensic accountant who is reviewing a substantial
6 amount of records on behalf of Mr. Ernst. And the defense,
7 based on her work and report, may submit certain mitigation
8 evidence at sentencing. We think that process could take some
9 time so we would like some time for that.

10 What we are -- and I want to make sure she has adequate
11 time, and we may have to find some records. So we're requesting
12 December 16th as a sentencing date.

13 THE COURT: Is that date agreeable with you?

14 MR. KREPP: Yes, Your Honor.

15 THE COURT: Case be continued to December the 16th at
16 9 a.m. for sentencing. It is referred to the probation office
17 for preparation of a presentence report.

18 MR. GOLDMAN: I'll take him down there now, Your Honor.

19 Thank you, Your Honor.

20 MR. KREPP: Your Honor, may I briefly address matters,
21 the motion to dismiss Counts 2, 4, 5, and 6?

22 THE COURT: All right. If you'll hand that forward,
23 I'll enter that order.

24 MR. KREPP: Additionally, the government would request
25 that the witnesses be excused from their subpoena.

1 THE COURT: They will.

2 MR. GOLDMAN: If I can say, Your Honor, the government
3 does not question that we are obviously requesting that
4 Mr. Ernst remain on bond through sentencing.

5 THE COURT: Bond be continued.

6 MR. GOLDMAN: Thank you, Your Honor. Have a good
7 morning, sir.

8 THE COURT: All right. Those other counts have been
9 dismissed.

10 We will adjourn until tomorrow morning at 9:30.

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12 (Proceedings concluded at 9:41 a.m.)
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CERTIFICATION

I certify, this 6th day of February 2012, that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter to the best of my ability.

/s/

Tracy Westfall, RPR, CMRS, CCR